

Woman sacked for having tattoo on foot



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Published at 12:01AM, July 17 2014

There are no laws that prohibit discrimination against people with particular visual expressions of personality

Jo Perkins is the consultant who last week was reported as having been sacked for having a visible tattoo on her foot.

Ms Perkins, 38, had had the butterfly design on the side of her left foot when she started working for the multimillion-pound firm Salisbury FM earlier this year.

However just months after she started work, her employers introduced a “no tattoos on show” rule and terminated her contract when she found it difficult to cover up her four-inch body art.

A high-flying career woman who lost her job because of a butterfly tattoo on her FOOT is contemplating taking a legal stand. Consultant Jo Perkins was this week forced to leave Salisbury FM, the multi-million pound CMK company whose sole client is Her Majesty's Revenue and Customs. The reason was that the 4cm butterfly and scroll design on Jo's foot was visible when she wore a dress.

Salisbury FM

As an agency worker, she has little redress. If she was an employee and was dismissed unfairly there may be a potential claim of unfair dismissal, albeit not one linked to any specific right to have a tattoo. Any question therefore of whether her sacking was “fair” will not amount to much. The company were well within their rights to terminate her assignment if she refused to follow a company policy while she was an agency worker.

Ms Perkins was keen to ascertain whether the company’s actions constituted “discrimination” under any “inclusion and diversity laws”. Sadly yet again for Ms Perkins, she is not protected.

There is no law protecting employees from being dismissed or not being engaged for work because they have a tattoo. While the law provides protection against discrimination on the grounds of characteristics such as age, gender, disability, race, religion, pregnancy and a number of other categories, having a tattoo is not one of them. The Equality Act in fact expressly excludes tattoos (and body piercings) from being protected (as severe disfigurement) from disability discrimination.

It appears that there are no current laws that directly prohibit discrimination against people with visible tattoos in the same way as there is no protection in the world of work for individuals with particular hairstyles, body piercings, brightly dyed hair or any other unusual visual expressions of personality.

However, with tattoo art on the rise, employers who believe visual tattoos may damage their professional image will need to give serious thought to how they are going to deal with such employees’ expressions of individual character.

Employers may sensibly introduce a dress-code policy that deals with visible tattoos in the workplace. While so doing however, they should consider issues such as will all visible tattoos be unacceptable, or only the offensive ones, or the large ones? Or will it depend on the role of the employee, whether they are client-facing or back-office?

With the best will in the world the employer may still at some point have to grapple with additional challenging issues, for instance if an employee claims the visible tattoo is essential to their philosophical belief. Such an employee could have an indirect discrimination claim if the policy places that employee (or others of the same belief) at a particular disadvantage. The employer in that situation would need to be able to objectively justify the policy that they have in place to avoid a successful claim against them.

As the law currently stands, employers can decide what body art may be revealed in the workplace. However when making the decision, they would be well advised to adopt a policy that accurately reflects their culture and professional image. They should also decide who the policy will apply to, to what extent, and be consistent in their application to avoid any discrimination claims.

Employers should also give thought on how to introduce the policy (especially where existing employees already have tattoos). A degree of short-term flexibility may be required, but ultimately the decision “to see tattoo or not to see tattoo” still remains in the hands of the employer.

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